

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

RICHARD L. HUNTER, SR.,)	
)	
Plaintiff,)	
)	Case No. 3:23-cv-01257
v.)	
)	Judge Eli J. Richardson
VOLTYX LLC & ARCLINE)	Magistrate Judge Barbara D. Holmes
INVESTMENTS MANAGEMENT EPS-)	
NASS PARENT, INC.,)	
)	
Defendants.)	

ORDER DENYING MOTION FOR DEFAULT JUDGMENT

Pending is Plaintiff’s Motion for Default Judgment against “Defendant EPS-NASS D/B/A Voltyx-Arcline Investment Management.” (“EPS-NASS”) pursuant to Federal Rule of Civil Procedure 55(b). (Doc. No. 8). For the following reasons, the Motion is **DENIED**.

A plaintiff must fulfill the procedural requirements of Federal Rule of Civil Procedure 55 and seek an entry of default pursuant to Rule 55(a) prior to seeking default judgment pursuant to Rule 55(b). *See* Fed. R. Civ. P. 55; *White v. Parker*, No. 1:11-CV-294-TRM-CHS, 2018 WL 1279545, at *3 (E.D. Tenn. Feb. 20, 2018). Plaintiff has not obtained an entry of default against Defendant prior to filing the instant motion, therefore it is premature. Moreover, Defendant EPS-NASS filed a response in opposition to Plaintiff’s Motion on March 15, 2024, (Doc. No. 9), and an Answer to Plaintiff’s Complaint on April 1, 2024. (Doc. No. 10). “Where a defendant appears and indicates a desire to contest an action, a court may exercise its discretion to refuse to enter default There is a strong public policy, supported by concepts of fundamental fairness, in favor

of trial on the merits.” *Higgins v. Dankiw*, No. 8:08CV15, 2008 WL 2565110, at *2 (D. Neb. June 24, 2008) (internal citations omitted).

Accordingly, Plaintiff’s Motion for Default Judgment (Doc. No. 8) is **DENIED**.

s/ Lynda M. Hill
Lynda M. Hill
Clerk of Court